

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

ALLEN RAY RUSSELL, II,

Petitioner,

v.

TIMOTHY WINGLE,

Respondent.

Case No. C07-5506FDB-KLS

ORDER FINDING REPORT AND
RECOMMENDATION MOOT
and RE-REFERRING CAUSE OF
ACTION TO MAGISTRATE
JUDGE

The Magistrate Judge filed a report and recommendation recommending denial of Petitioner's application to proceed *in forma pauperis*, as it appeared that he had sufficient funds to pay the \$5.00 filing fee. Meanwhile, the docket reflects that shortly after the Report and Recommendation was filed, Petitioner paid the filing fee. At the same time, he filed his habeas corpus petition as well as a motion for court appointed counsel. Petitioner having paid the filing fee, the Report and Recommendation has become moot. This matter will be referred again the Magistrate Judge to address the motion for appointment of counsel.

NOW, THEREFORE, IT IS ORDERED:

- (1) the Magistrate Judge's report and recommendation is FOUND TO BE MOOT and is STRICKEN from the Court's calendar, Petitioner having paid the filing fee;
- (2) This matter is RE-REFERRED to the Magistrate Judge;
- (3) the Clerk is directed to send copies of this Order to petitioner and any other party that has appeared in this action.

DATED this 28th day of November, 2007.



FRANKLIN D. BURGESS
UNITED STATES DISTRICT JUDGE